

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on January 15, 2013, adopted an amendment to Chapter 615, “Sanctions,” Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the November 14, 2012, Iowa Administrative Bulletin as **ARC 0438C**.

Iowa Code section 321.210A was amended in 2009 Iowa Acts, chapter 130, section 11, which eliminated the authority of the Department to determine whether a person has the ability to pay a criminal penalty, fine, surcharge or court costs before the Department suspends the person’s driver’s license for failure to pay. The amendment brings the rules up to date to comply with Iowa Code section 321.210A.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

This amendment is identical to the one published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 321.210A.

This amendment will become effective March 13, 2013.

Rule-making action:

Amend rule 761—615.22(321) as follows:

761—615.22(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.22(1) *Report to the department.* The department shall suspend a person’s privilege to operate motor vehicles in Iowa:

~~a. When~~ when the department is notified by a clerk of the district court on Form No. 431037 that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court; and.

~~b. When, in accordance with subrule 615.22(2), the person has not timely raised the defense of inability to pay, or the department determines that the person is able to pay the fine, penalty, surcharge and court costs.~~

615.22(2) *Ability to pay.*

~~a. The department shall presume that a person is able to pay the fine, penalty, surcharge and court costs when it receives the “Notice to Suspend” copy of Form No. 431037 from the clerk of the district court.~~

~~b. The department shall not consider inability to pay as a defense to license suspension unless the person files Form No. 431038 with the department within 45 days after the clerk of the district court mailed notice of nonpayment to the person.~~

~~c. If the department determines that the person is unable to pay, the department shall notify the person and the clerk of the district court of that decision and shall take no further action. If the department determines that the person is able to pay, the department shall suspend the person’s privilege to operate motor vehicles in Iowa as outlined in subrule 615.22(1).~~

615.22(3) *Suspension.*

~~a. The suspension period shall begin 30 days after the notice of suspension is served.~~

~~b. The suspension shall continue until the department has issued a notice terminating the suspension. The department shall terminate the suspension when it receives evidence that all appropriate payments have been made.~~

c. An informal settlement, hearing or appeal to contest the suspension shall be limited to a determination of whether the facts required by Iowa Code section 321.210A and this ~~rule~~ subrule are true. The merits of the conviction shall not be considered.

615.22(2) Reserved.

This rule is intended to implement Iowa Code section 321.210A.

[Filed 1/16/13, effective 3/13/13]

[Published 2/6/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/6/13.